United Nations E/2001/77

Economic and Social Council

Distr.: General
31 May 2001

Original: English

Substantive session of 2001
Geneva, 2-27 July 2001
Item 14 (g) of the provisional agenda*
Social and human rights questions: human rights

Letter dated 11 May 2001 from the Chairperson of the Committee on Economic, Social and Cultural Rights to the President of the Economic and Social Council

1. The voluminous material from United Nations sources and from non-governmental organizations (NGOs) (Commission on Human Rights mechanisms: Adalah: Legal Centre for Arab Minority Rights in Israel (Israel); BADIL Resource Centre for Palestinian Residency and Refugee Rights (Bethlehem, Palestine); Boston University Civil Litigation Program (United States of America); Habitat International Coalition, Housing and Land Rights Committee (Middle East/North Africa); LAW: The Palestinian Society for the Protection of Human Rights and the Environment (Jerusalem, Palestine); World Organization against Torture; Palestinian Centre for Human Rights (Gaza, Palestine) made available to the Committee at its twenty-fifth session (23 April-11 May 2001) under the follow-up procedure with respect to its consideration of the initial report of Israel in 1998 confirm that the present situation of the Palestinian population in the occupied territories of the West Bank, Jerusalem and the Gaza Strip is dire. In the light of the ongoing crisis and State party's continuing refusal to apply the International Covenant on Economic, Social and Cultural Rights to, and report on, the occupied territories, the Committee makes reference to rule 64 of its rules of procedure. This rule provides that the Committee may make suggestions and recommendations of a general nature on the basis of its consideration of reports submitted by States parties and the reports submitted by specialized agencies in order to assist the Council in fulfiling, in particular, its responsibilities under articles 21 and 22 of the Covenant.

2. Accordingly, the Committee wishes to draw attention of the Council to its self-explanatory letter addressed to the State party (see annex) as well as to the nature of the situation relative to the monitoring functions of the Committee with respect to implementation of the International Covenant in "crisis situations", which may require action by the Council under articles 21 and 22 of the Covenant:

(a) While discharging its monitoring and reporting functions, the Committee

* E/2001/100.

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remains limited in the enforcement aspect required to maintain the integrity of the Covenant in such a situation;

(b) The "international measures likely to contribute to the effective progressive implementation of the Covenant" (article 22 of the Covenant), required to uphold the integrity of the Covenant in such a case, therefore fall within the purview of other bodies of the international system;

(c) In view of the Committee's responsibility to uphold the Covenant and effectively monitor the implementation of the rights recognized therein, the Committee would be remiss if it did not underscore the need for protection measures for the population in the occupied territories. The Committee adds its recognition of these facts as a matter of course in its monitoring work and, with particular reference to the tragic loss of life and limb, the senseless destruction of property and the deliberate starving and economic strangulation of the Palestinian people by the Occupying Power;

(d) The Committee recognizes with special appreciation the recommendations of the Special Rapporteur on the Occupied Palestinian Territories of the Commission on Human Rights, the Commission on Inquiry, the mission report of the United Nations High Commissioner for Human Rights and reliable information from other sources and eyewitness accounts; and notes that these recommendations for effective measures for protection and upholding human rights, in particular economic, social and cultural rights, remain outstanding.

Virginia **Bonoan Dandan**
Chairperson
Committee on Economic, Social and Cultural Rights

Annex

Letter dated 11 May 2001 from the Chairperson of the Committee on Economic, Social and Cultural Rights addressed to the Permanent Representative of Israel to the United Nations

The Committee on Economic, Social and Cultural Rights acknowledges with appreciation the receipt of additional information to Israel's initial report as requested by the Committee in its concluding observations.

However, the additional report was submitted beyond the date requested by the Committee and as a result the additional information could not be translated into the required working languages in time for its consideration on 4 May 2001 during the Committee's twenty-fifth session.

You will recall that, in its concluding observations in relation to the initial report of Israel, the Committee requested the submission of additional information in time for its twenty-fourth session in November and December 2000. The Committee wishes to emphasize that some of the additional information, in particular where it concerns the occupied territories, was requested in order to complete the State party's initial report and thereby ensure full compliance with its reporting obligations. The Committee therefore regrets that this current delay in submitting the additional information has resulted in another postponement of its consideration to the forthcoming twenty-sixth session of the Committee in August 2001.

The Committee reiterates the legal position shared by other treaty bodies that Israel's international treaty obligations as with this Covenant, apply to territories within its internationally recognized borders as well as other areas under its jurisdiction and effective control, including Jerusalem, the West Bank and the Gaza Strip. The State party's argument that jurisdiction has been transferred to other parties is not valid from the perspective of the Covenant, particularly in view of Israel currently besieging all the Palestinian territories it occupied in 1967. In response to your letter of 19 April 2000, the Committee reaffirms the principle that political processes, domestic legislation, scarcity of resources or agreements with other parties do not absolve a State from its obligations to ensure the progressive realization of economic, social and cultural rights as provided for by the Covenant.

At its twenty-fifth session, the Committee had at its disposal a variety of recent reports, including those of the human rights inquiry commission established pursuant to Commission on Human Rights resolution S-5/1 of 5 October 2000 (E/CN.4/2001/121), of the Special Rapporteur (E/CN.4/2001/30) and of the United Nations High Commissioner for Human Rights (E/CN.4/2001/114), as well as the letter of the Permanent Representative of Israel to the United Nations addressed to the United Nations High Commissioner for Human Rights (E/CN.4/2001/133). In light of these and other available reports, the Committee reiterates its deep concern over accounts that Israel's recent actions in the occupied territories in violation of international human rights law and humanitarian law have resulted in gross violations of the economic, social and cultural rights of Palestinians. The Committee regrets that the ongoing conflict has resulted in the loss of Palestinian and Israeli lives. The Committee is particularly concerned about the lack of protection for Palestinian civilians in the occupied territories and the renewed maltreatment of

Palestinian Arab citizens of Israel. Among a number of issues, the Committee expresses grave concern about the following situations, which have serious implications for the enjoyment of economic, social and cultural rights:

- The violation of the Palestinian people's right to self-determination through the continuing occupation of East Jerusalem, the West Bank and Gaza Strip.
- State party's continuing expropriation of Palestinian national resources including land and aquifers for exclusive Jewish control.
- The expropriation and devastation of vast areas of Palestinian lands by Israelis in the occupied territories resulting in grave hardships particularly for farmers and agricultural workers.
- Continued establishment and expansion of illegal Jewish settlements throughout the occupied territories of East Jerusalem, West Bank and Gaza Strip including those straddling the "green line".
- The destruction of Palestinian homes, mosques, churches, hospitals, public buildings, power plants and commercial establishments through various means including heavy weaponry.
- Closures imposed solely on Palestinians, impeding access to health care, education, economic activities pertaining to employment and livelihood, and to the integrity of the family and the right to take part in cultural life through religious expression.
- The prevention by the State party military and security forces of medical aid and personnel from ministering to injured Palestinians and the attack of clearly marked medical vehicles and personnel.
- Discrimination in law enforcement practices, including the disproportionate use of force and procedures against Palestinians in the occupied territories and Palestinian citizens of Israel.

The Committee welcomes the recent submission of additional information by Israel and appreciates this opportunity to address the situation of the Covenant within its territories. The Committee looks forward to a constructive dialogue with the delegation of the State party on 17 August 2001 when it considers the additional information already submitted by State party.

Virginia **Bonoan Dandan**
Chairperson
Committee on Economic, Social and Cultural Rights